

MINUTES

OF THE

NATURAL RESOURCE COMMISSION

MEETING

JANUARY 18, 2006

WALLACE STATE OFFICE BUILDING
DES MOINES, IOWA

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MEETING MINUTES

CALL TO ORDER

The meeting of the Natural Resource Commission was called to order by Vice-Chairperson Joan Schneider at 9:35 a.m. on Wednesday, January 18, 2006.

MEMBERS PRESENT

Joan Schneider
Carol Kramer
Janice Marcantonio (by phone)
Liz Garst
Lennis Moore

MEMBERS ABSENT

Randy Duncan
Richard Kim Francisco

APPROVE AGENDA

It was noted that the order in which items are on the agenda may be moved from their position in order to discuss legislation before the start of the Environmental Protection Commission.

Motion was made by Commissioner Kramer to approve the January 18, 2006 NRC agenda. Seconded by Commissioner Moore. Motion carried unanimously.

AGENDA APPROVED

APPROVE MINUTES

Motion was made by Commissioner Kramer to approve the December 8, 2005 NRC Minutes. Seconded by Commissioner Moore. Motion carried unanimously.

MINUTES APPROVED

CONSTRUCTION PROJECTS

Basil Nimry, Bureau Chief, Engineering and Realty Services, presented the following item.

Ventura Access, Cerro Gordo Co. – Boat Ramp Construction

This project consists of the addition of a single lane concrete boat ramp west of existing ramp, relocation of handicap dock approach to west edge of new ramp, and incidental work as required by the Plans and the DNR Construction Inspector. Project is budgeted 50% Marine Fuel Tax and 50% Coast Guard funds. DNR estimate is \$44,730. Eleven sets of plans were requested. Five bids were received.

Larson Contracting, Inc.	Lake Mills, IA	\$40,589.95
Weaver's, Inc.	Tipton, IA	\$49,532.98
Yohn Co., dba The Excavating Co.	Clear Lake, IA	\$52,329.00
Holland Contracting Corp.	Forest City, IA	\$74,520.80
Peterson Contractors, Inc.	Reinbeck, IA	\$75,875.00

Staff recommends award of contract to Larson Contracting, Inc., low bidder.

CONSTRUCTION PROJECT APPROVED

Green Island WMA, Jackson Co. – Channel 4 Cross Levee Riprap (Phase 2)

This project consists of the placement of riprap along the Channel 4 cross levee at Green Island WMA and incidental work as required by the Plans and the DNR Construction Inspector. Project is budgeted in Marine Fuel Tax funds. DNR estimate is \$112,000. Nineteen sets of plans were requested. Thirteen bids were received.

Steger Construction, Inc.	Dyersville, IA	\$84,480.00
Phoenix Corp of the Quad Cities	Port Byron, IL	\$102,800.00
J. B. Holland Construction, Inc.	Decorah, IA	\$116,000.00
Tschiggfrie Excavating, Co.	Dubuque, IA	\$121,200.00
Todd Summers Enterprise	Masonville, IA	\$125,440.00
Dolan Excavating, LLC	Manchester, IA	\$127,200.00
Jacob Scheckel, dba S2 Construction	Bellevue, IA	\$127,200.00
Dick Doyle Excavating, Inc.	Illinois City, IL	\$138,240.00
Weaver's, Inc.	Tipton, IA	\$138,960.00
Brandt Construction Co.	Milan, IL	\$141,760.00
Connolly Construction, Inc.	Peosta, IA	\$142,400.00
Peterson Contractors, Inc.	Reinbeck, IA	\$144,000.00
Newt Marine Service	Dubuque, IA	\$159,360.00

Staff recommends award of contract to Steger Construction, Inc., low bidder.

Motion was made by Commissioner Moore to approve the low bid of Larson Contracting, Inc. of Lake Mills, IA in the amount of \$40,589.95 for boat ramp construction at Ventura Access in Cerro Gordo County and to approve the low bid of Steger Construction, Inc. of Dyersville, Iowa in the amount of \$84,480.00 for riprap work at the Green Island Wildlife Management Area in Jackson County. Seconded by Commissioner Kramer. Motion carried unanimously.

CONSTRUCTION PROJECT APPROVED

Hawkeye WMA, Johnson Co. - Subimpoundment Construction

This project consists of the construction of a compacted earthfill dike system including several flow control structures, a granular surfaced parking area, and incidental work. Project was budgeted in Federal Coralville Condition 5, Marine Fuel Tax, and Fish and Wildlife Trust funds. DNR estimate was \$744,650 for west and center dike (Base Bid), \$458,650 for east dike (Alternate #1) and \$42,600 for ramp and parking area (Alternate #2). Thirty-eight sets of plans were requested. Eight bids were received.

Staff recommended award of contract to Wheatland Contractors, Inc., low bidder, for \$1,346,938.00. The Natural Resources Commission awarded a contract on October 13, 2005 to Wheatland Contractors, Inc. Due to unexpected delays in receiving archeological approval, Wheatland Contractors, Inc. initiated a termination for convenience of this contract.

Iowa Attorney General Counsel and DNR staff recommends approval of an Agreement for Mutual Release of Claims Concerning Public Construction Contract between Wheatland Contractors, Inc. and the Iowa Department of Natural Resources.

Commissioner Garst asked what could be done differently in the bidding process so that we would not be giving up \$35,000 and so this would not happen again.

Basil Nimry explained that during the archeological survey there were some discoveries made that led us to believe that there used to be a Native American village there.

Commissioner Garst asked if there was a way to do the archeological surveys before bids are let so that problems do not occur.

Mr. Nimry explained that the archeological survey cannot be applied for until the design is complete. After that, a 404 permit is submitted to the Army Corps of Engineers and the Corps then asks the department for a certain level of archeological survey. He said an initial archeological survey is done prior to the project request but in this case it was later discovered that additional work was warranted. Nimry further explained that the \$35,000 is payment for actual work that has already been done and is for the use of contractor's equipment at the area.

INFORMATION ITEM

LEGISLATIVE INITIATIVES**2006 Department of Natural Resources Proposed Legislation****Environmental Protection Initiatives:**

1. Amend 455B.173 to direct fees collected from wastewater disposal facilities to the Department of Natural Resources for administering the water pollution control program.

The Department proposes to amend 455B.173 to specify that the fees collected from wastewater disposal facilities will be submitted to the Department. The amount of fees to be assessed will be established through rulemaking by the Environmental Protection Commission and will be based on the cost of administering the water pollution control program.

2. Amend 455B.172 to require inspections of on-site wastewater treatment systems and private water wells at time of sale or transfer of the property.

The Department proposes to amend 455B.172 to give the DNR specific authority to establish programs at the county level to require inspection of all private sewer systems and private water wells and the testing and analysis of drinking water wells at the time of sale or transfer of ownership of a property.

3. Amend 455B.172 to require the submission of sewage disposal plans for approval by the local Board of Health before any subdivision plats are approved.

The Department proposes to amend 455B.172 to require sewage disposal plans at the time of planning subdivision development and that the plans be approved by the county Board of Health. It is advantageous to the subdivision developer and future lot owners if decisions on how sewage is going to be treated are made prior to the final determination of lot dimensions.

4. Technical/Corrective Code Changes (3)

A. The Department proposes to rescind 455B.412(1), 455B.464 and 455B.484(11) which outline several requirements in the Code related to the development of plans and the management of the RCRA (Resource Conservation and Recovery Act) Subtitle C (hazardous waste) program. This program, while once administered by the DNR, has been managed by the US EPA since the mid 1980s. Plan development and management of the hazardous waste program is a federal government responsibility and no longer the Department's.

B. The Department proposes to rescind 473.40 as it relates to the development of energy rating systems for residential, public, commercial and industrial buildings and sets forth dates for completion.

The Department received federal funding and developed the Home Energy Rating System (HERS) for residential buildings in 1999. Builders constructing new homes in Iowa today may use the ENERGY STAR Builders Option Package (BOP) rating system. The Department had convened a technical advisory committee for the development of an energy efficiency system for commercial buildings. The committee concluded that it would be very difficult, and possibly not practicable, to develop a general energy efficiency rating for these facilities. Recently Iowa became a member of the US Green Buildings Council, a national organization that rates and certifies highly energy efficient and sustainable Leadership in Energy and Environmental Design (LEED) buildings. The ratings are voluntary at this time; however, more building professionals and designers across Iowa are constructing buildings to LEED standards. The current code is outdated and obsolete.

C. The Department proposes to rescind section 455B, Division IV, Solid Waste Disposal, Part 2 Radioactive Waste. The Iowa Department of Health (Chapter 136C) and the Iowa Department of Transportation have the authority over the use and transportation of radioactive material/waste in Iowa. This authority is granted by the Iowa Code and by an agreement with the federal government. The Department delegates its authority to the Department of Public Health through a 28E agreement.

Natural Resources Initiatives:

5. Amend 483A to increase the number of nonresident hunting licenses.

The Department proposes to amend 483A to increase the number of nonresidents allowed each year to hunt any sex deer and wild turkey. This amendment makes two changes concerning the number of nonresident hunting licenses.

1) Allow for the issuance of 6,000 additional nonresident any sex deer licenses, bringing the total available any sex nonresident licenses to 12,000.

2) Allow for the issuance of 1,000 additional nonresident wild turkey licenses, bringing the total available licenses to 3,300.

Each year the DNR refunds 6,000-plus nonresident any sex deer license application fees, totaling over \$2.5 million. In return, the Department will commit additional funds towards increased public hunting access opportunities.

6. Amend 481A.130 to strengthen the penalties for illegally taking bobcats and illegally taking sport fish.

The Department proposes to amend 481A.130 to better protect certain fish and wildlife species by making the following changes:

- Establish a fine for illegally taking bobcat at \$200.
- Raise the fine on certain sport fish. Damages of taking fish with an established daily limit of 25 or less is \$50 with these exceptions; paddlefish set at \$500; muskellunge \$500 for 50" or less plus \$100 for each inch over 50".
- Establish a fine of \$50 for illegally taking largemouth and smallmouth bass; walleye; northern pike; channel and flathead catfish; rainbow, brown and brook trout; plus \$50 for each inch over designated size.

The bobcat is currently under the definition of common furbearing game, and the fine (\$50) is not appropriate for this particular species. Values for illegally taken fish are well below those of most of the neighboring states (\$15) and do not cover the cost of producing sport fish.

7. Amend 482 improve regulations for the commercial harvest of fish, mussels and turtle.

The Department proposes to amend 482 to develop better resource management tools and provide certain species better protection by making the following changes:

- Establish separate licenses for commercial fish buyers and commercial turtle buyers, and require records of their purchases from the commercial harvesters.

- Eliminate the designated operator license and require each commercial fisher who operates a crew to purchase an owner's license.
- Establish a commercial fish helper's and a commercial turtle helper's license, in addition to the current commercial mussel harvest helper, and set the cost at \$50 for each license.
- Prohibit nonresidents and aliens from harvesting turtles for either sport or commercial purposes from all inland waters of the state.
- Align residency requirements for commercial fish and turtle harvest with residency requirements for fishing and hunting licenses.
- Increase the boundary water sport trotline license to \$20.00 for residents and \$40.00 for nonresidents (not changed since 1987). The boundary water sport trotline license permits the licensee to use a maximum of four trotlines with up to 200 hooks total on the Mississippi, Missouri, and Big Sioux River.
- Increase commercial turtle license to \$200 for residents and \$400 for nonresidents.

These changes help maintain accurate harvest records for resource management, bring regulations in line with other states, clean up law enforcement issues, and bring fees in line with inflation and other states.

8. Amend 462A.12 to require personal flotation devices for children under 13.

The Department proposes to amend 462A.12 to help improve the safety of children while boating. This requires children to wear a personal flotation device on a moving vessel unless the child is in a fully enclosed area, below deck or on a commercial excursion boat with a capacity of twenty-five persons or more. Iowa is one of only four states that do not have such a requirement for children. This change is critical to improve child safety, and brings Iowa in line with the rest of the states and federal regulations.

9. Amend 321I and 805.8B to establish an electronic registration system for resident all-terrain vehicle registration and improve rider safety.

The Department proposes to amend 321I to make it easier for residents to register all-terrain vehicles for use on the state designated riding areas and improve rider safety by making the following changes:

- Establish an electronic registration system for residents, similar to the current nonresident registration system, and improve the process for the registration of used all-terrain vehicles by allowing either the seller or purchaser of an all-terrain vehicle to bring the registration to current status.
- Require adult supervision on state designated riding areas for riders less than sixteen years of age.
- Provide clarification that all-terrain vehicle operation by adjacent land owners on public right-of-way areas requires operators meet the safety and registration requirements of the chapter.
- Establish repeat offender record keeping system and administrative process, similar to the system used to track repeat violators of fish and game statutes.
- Define all-terrain utility vehicles (Gators, Mules, Rhinos) and provide clarification on their use, including user permits for use on designated public property.

- Provide for all-terrain vehicle use to mow or maintain a designated trail system as defined by this chapter.
- Strengthen penalties for illegal all-terrain vehicle operation from \$20 to \$50 for safety equipment requirements, \$100 plus cost for illegal operation.

Commissioner Garst asked for staff insight as to why there is opposition to the nonresident deer legislation.

Director Vonk replied that the Iowa Conservation Alliance, which is a collection of sportsmen's organizations, has taken a very strong position in opposition to any increase in nonresident deer licenses. He said the trend has been that more and more groups or individuals are leasing land to preserve a place for them to hunt. Because of this others are loosing access to the lands they have traditionally been hunting with just a knock on the door. He explained that staff is still going to work with the committees in the legislature and staff will still promote the nonresident deer legislation. Director Vonk added that this issue is probably the issue that is the most threatening to the future of hunting and to a lesser degree, fishing in this state.

Commissioner Garst presented some math showing that if 6,000 more out-of-state licenses were sold, \$2 ½ million more money could be raised for acquiring more public access land. Director Vonk reiterated that his commitment is that if that happens, 100% of the return would be dedicated into an access program.

Commissioner Garst asked how other states handle access to private lands.

Director Vonk relayed that the wildlife bureau has invited representatives from Kansas, Nebraska and the Dakotas to their statewide meeting next month to talk about their programs that are already in existence and to get their experiences of operating a walk in program or a private lands access program. He also distributed an article entitled "The End of Hunting" which talks about the private lands access in some Midwest states. The article indicates that based on the data that was presented, access programs have a very positive impact on participation. Vonk went on to say that the sporting community's opposition to moving forward with a private lands access program and trying to force a no action from either the department or legislators will perpetuate the exact problem being talked about. He said there is no plan in our sportsman's community to deal with this and unfortunately it is going in the direction of not doing anything instead of trying to manage the situation.

Director Vonk remarked that the "The End of Hunting" article is intriguing and interesting but said he does not agree with the subtitle "How Only Progressive Government Can Save a Great American Pastime." He said he does not agree that it is "only government", but that it is our citizens and our participants who have to wake up and figure out a way to manage and work with the government agencies.

Commissioner Garst asked if staff could get some kind of implementation plan sketched out for buying public access easements. She said that may help get the issues through the legislature.

Commissioner Moore asked that updates on legislative issues be sent to commissioners. Director Vonk noted that the legislative liaisons keep track of bills, both this department's and others that affect the policy of the department, and the update is sent out electronically bi-weekly.

Motion was made by Commissioner Garst to endorse the DNR's legislative proposals and to put ourselves on the docket, as a commission, to lobby for the natural resources legislative initiatives.

Commissioner Moore said he would rely on staff and the Director to bring these legislative issues forward. He said he is concerned that it may be early for the commission to endorse all of initiatives and they should simply rely on time for staff to provide the commission with the initiatives that they feel can do the most good leveraging or try to change and move forward.

Commissioner Schneider questioned whether it makes a difference to the legislature as to whether the legislative initiatives are supported as a commission.

Director Vonk responded that legislators do pay attention to what action is taken in terms of rulemaking. He added that as a body, it probably would be a statement of support. He also noted that as individual commissioners, they can certainly do what they deem best because some folks are comfortable in an open advocacy role and others are not. He said he senses that the majority of commissioners are not comfortable as open advocates at this point.

Motion died for a lack of a second.

Commissioner Garst commented that at the last meeting there was discussion about endorsing not only the NRC's but also EPC's legislative initiatives and the comments by commissioners were that not enough was known about the EPC issues to be a lobbyist. She said that since then the commission has had the opportunity to avail themselves of the opportunity to learn more about their issues and they have invited NRC commissioners to attend their meeting on clean water issues. Garst said fishing is affected by poor water quality so that is NRC's issue too. She stressed that natural resources are our issue and emphasized that we must pay attention to their issues and do what we can to speak as a voice for natural resources in this state and be supportive where we can.

Director Vonk reported on a bill is being drafted that will call for dividing this department into two agencies—the natural resources and the environmental protection side. He said he does not have details but that Senator Black is a sponsor. He added that this legislation would have a far-reaching impact on our departmental operations if it is passed. He asked the commissioners to pay attention to discussion on that bill.

YELLOW RIVER STATE FOREST, ALLAMAKEE COUNTY TIMBER SALE

Kenneth Herring, Administrator, Conservation and Recreation Division, presented the following item.

The Forestry Bureau is conducting a timber sale involving approximately 15 acres (or 1.4% of the Unit) involving 571 trees (98,959 board feet (Scribner)) located on the Yellow River Unit of the Yellow River State Forest. The trees are located Sections 29 & 30, Fairview Township, T67N, R3W, in Allamakee County. Trees are marked with yellow paint.

There are actually three small harvest areas with two different goals. The first treatment is about 10 acres in size, comprised of sawtimber-sized oak that has been devastated over the last 15 years by oak wilt. About 15,000 board feet of red oak has already been lost, 1000 board ft per acre. The management practice will be a harvest aimed at reducing or eliminating red oak in these areas to try to stop the spread of the disease.

The second treatment area, about 5 acres in size, is in a stand that is very old and decadent, predominantly red oak, with white oak and hard maple. Many trees have breakage, rot, and other defects and are in danger of succumbing to the elements within a relatively short period of time. The management practice on this stand will be to harvest all trees on the area, followed by site preparation and subsequent native tree planting the spring following harvest.

Site review was conducted during the Spring and Summer of 2005 by DNR State Ecologist John Pearson. There were no threatened or endangered plants or animals noted. Based on John's recommendation, no logging will be done on or near rock outcroppings in order to protect the unique plant communities that exist on these areas.

Additionally, since Yellow River State Forest is within a bird conservation area (BCA) DNR Wildlife Diversity Specialist, Bruce Ehresman's comments were considered. He states "small clearcuts should not be an issue as long as they are well-planned. In fact, clearcuts can create appropriate habitat for several declining forest birds like the yellow-breasted chat, cuckoos, and blue-winged warblers." Actual logging operations will be limited to dry or frozen ground conditions, and although not stated in the timber sale notice, the contract will limit harvesting during April-June for game and non game bird nesting.

The Yellow River Unit has been the subject of much archaeological research since DNR acquired the property in 1989-90. Bob Honeywell our Area Forester received 2-day training along with many of our Area and District Foresters in the late 1990's from USDA NRCS on how to "Spot Archaeological Sites". In addition, Bob consulted "Phase I Archaeological Reconnaissance Survey of the Yellow River Mission Property" conducted by Dave Stanley of Bear Creek Archaeology, Inc. and "The Archaeology of Allamakee County, Iowa An Overview and Research Guide Volume I" and "Volume II Confidential Site Location Information". No unusual landforms were encountered by Bob during reconnaissance of the timber sale site. However, a review of the Phase I Survey done by Bear Creek Archaeology revealed a possible site outside the timber sale area. Care will be taken to keep equipment away from the site.

Sealed bids were received until 2 p.m., Monday, November 21, 2005, at which time bids were opened and the sale will be awarded to the highest bidder.

The bids were as follows:

Kendrick Forest Products \$57,142

Konkel Sawmill	\$56,557
Grau Logs & Lumber	\$52,553
Nelson Hardwoods	\$29,554

We recommend that Kendrick's Forest Products be awarded the bid for \$57,142. The successful bidder must execute a timber sale contract with the State of Iowa by February 20th, 2006, and make payment at that time also. Trees must be removed by March 31st, 2008. Liability insurance is required. Buyers must be bonded.

<u>Species</u>	<u># trees</u>	<u>board feet (Scribner)</u>
Red Oak	274	54,800
White Oak	118	19,940
Walnut	6	800
White Ash	18	2,100
Aspen	46	6,600
Cherry	13	1,279
Hard Maple	65	8,940
Basswood	25	3,420
R. Elm	1	560
W. Elm	2	180
Hickory	3	340
Culls	40	
Totals	571	98,959

Ken Herring presented details of the evaluation and site review for the timber sale at Yellow River.

Motion was made by Commissioner Kramer to approve the high bid of Kendrick's Forest Products in the amount of \$57,142 for timber sale at Yellow River State Forest, Yellow River Unit in Allamakee County. Seconded by Commissioner Moore.

John Walkowiak noted that this timber sale was listed on the DNR web page and that individuals and the public were properly notified of the timber sale.

Commissioner Garst noted that the new procedures for the long-term management plan of future timber sales will allow for a one-year advance notice and the forest management plan can be provided to the public.

Motion carried unanimously.

TIMBER SALE APPROVED

WHITETAIL PRESERVE INDUSTRY JOINT STUDY RECOMMENDATIONS

Dale Garner, Wildlife Bureau Chief, presented the following item.

Attached for Commission review is the results of the first meeting of the “Joint Study Committee” for the Whitetail Hunting Preserve Industry. This first meeting dealt with the establishment of standards and guidelines to be used by the natural resource commission when considering waivers for minimum acreage requirements for registering whitetail hunting preserves as required in Iowa Code chapter 484C. These established guidelines and standards will now be the parameters by which future waiver requests shall be considered.

Iowa Department of Natural Resources and Whitetail Hunting Preserve Industry Joint Study Recommendations

A committee consisting of Iowa DNR personnel and Whitetail Hunting Preserve members was established under the authority of SF 206 (2005 session) and charged with developing recommendations for industry standards and guidelines to be used by the natural resource commission when considering waivers for minimum acreage requirements for whitetail hunting preserves as provided in section 484C.5. The committee met on December 20, 2005 and came up with two recommendations:

1. All new whitetail hunting preserves between 160 and 319 acres applying for a wavier from the natural resource commission must contain the following minimum percentages of forest and shrub escape cover based on the topography of the land:
 - 75% forest/shrub cover for flat terrain
 - 50% forest/shrub cover for rolling terrain
 - 30% forest/shrub cover for rugged terrain
2. The DNR shall solicit comments and recommendations from the Iowa Whitetail Deer Association prior to submitting a wavier request to the natural resource commission for consideration.

Iowa was divided into the three land classifications using soils maps to describe terrain.

Each soil mapping unit has an associated range of slopes on which it typically occurs (e.g., 0% to 2 %, 5% to 9%, or 9% to 14%). The midpoint of this range is used to describe the “ruggedness” of the terrain, as follows:

Mid-Range Value	Land Classification
5.0 or LESS	FLAT
5.1 to 14.0	ROLLING
14.1 or MORE	RUGGED

Iowa DNR has published a statewide soils data layer in GIS format. The number of acres falling into each of the above land classifications can easily be computed for any piece of land. An assigned weighted mean to score parcels was developed to more correctly classify acreages of mixed terrain. The weighted mean is as follows:

Mid-Range Value	Land Classification	Weight Factor	Weighted Mean
5.0 or LESS	FLAT	50	83.3 or LESS
5.1 to 14.0	ROLLING	100	83.4 to 116.6
14.1 or MORE	RUGGED	150	116.7 or MORE

Mr. Garner reviewed some past history of deer preserves and presented a review of process followed for developing recommendations for industry standards and guidelines to be used by the natural resource commission when considering waivers for minimum acreage requirements for whitetail hunting preserves as provided in section 484C.5.

INFORMATION ITEM

GENERAL DISCUSSION

Commissioner Garst stated that at the last meeting, she talked about the DNR's Self Assessment Report and its mentioning the potential for revenue increases. She said she would like to have a better understanding where the fees go, about how potential revenue increase are decided, when they are decided and what the policy is regarding the fees we collect and our need to cover our costs. She asked about the Department's Charter Agency Commission and asked if something could be planned for the next meeting or another meeting on this.

NEXT MEETING DATES

The next meeting will be held February 9, 2006 in Des Moines.

ADJOURNMENT

<i>Motion was made by Commissioner Moore to adjourn the January 18, 2006 NRC meeting. Seconded by Commissioner Kramer. Meeting adjourned at 10:05 p.m..</i>

Jeffrey R. Vonk, Director

Janice Marcantonio, Chairperson

Randy Duncan, Secretary

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